DHRA
Defense Human Resources Activity

ETHICS MATTERS
New Employee Ethics Orientation

DHRA Office of General Counsel

Welcome to DHRA

DHRA Ethics Officials

- **Designated Agency Ethics Official**
  - **General Counsel (GC), DoD**
- **Deputy Designated Agency Ethics Official**
  - **Carolyn Howell, GC, DHRA, (571) 372-1987**
- **Ethics Counselor (Primary)**
  - **Heather LoPresti, Associate GC, (571) 372-1988**
- **Ethics Counselors**
  - **David Hoard, Associate GC, (571) 372-1986**
  - **Mathew Ponzar, Associate GC, (571) 372-1977**
  - **Hattie DuBois, Associate GC, (571) 372-1965**
- **Paralegal**
  - **Thomas Holland, (571) 372-1979**

Ethics Matters

This presentation is to help you understand that ethics really does matter, and to discuss the details of various ethics matters in the criminal code, Office of Government Ethics regulations, and the DoD Supplemental Standards of Conduct.

A Word About Ethics Advice…

- Always Ask Before You Ac
- There is no Attorney Client Privilege between you and the agency's ethics counselor.
- Reliance on a written opinion from an ethics counselor, after full disclosure by you, will certainly help. However, only the Department of Justice decides who it will, or will not, prosecute for criminal violations.

What you just promised

Oath of Office

I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

5 U.S.C. §3331

What Does The Oath of Office Mean to You?

Following is a discussion of the Principles of Ethical Conduct. These principles are things that we all intuitively understand. Public service is an honor, and we all feel good when we serve honorably.

This is what it means to be a part of the DHRA team.

Integrity

Honor **Patriotism**

Public Service is a Public Trust

Accountability **Selflessness**

Do Not **Solicit** Gifts from Entities Seeking Official Action

Do Not **Accept** Gifts from Entities Seeking Official Action Unless An Exception Applies

Avoid Creating Even an Appearance of Ethical Violations

Put Forth An Honest Effort In Performing Your Duties

Do Not Make Unauthorized Commitments on Behalf of the Government

You may not take official action in particular matters, such as contracts, or source selections, where you, your spouse, minor child, general partner, any organization where you serve as an officer, director, trustee, general partner, or employee, or any non-Federal entity with whom you are negotiating employment has a financial interest. 18 U.S.C. 208

Do Not Hold Financial Interests That Create A Conflict of Interest

ETHICAL CHOICES

Most of us will faithfully discharge the duties of the office we have been honored to serve.

There have been incidents where Federal employees have lost their way and committed ethical

The Washington Post Test

Always consider whether your actions will end up on the front page of *The Washington Post*

- **If you are thinking about taking some action that is questionable, ask yourself how it would look if someone printed it in *The Washington Post*. Following are examples of what not to do…**

We Would Like to Forget…

Darlene Druyan – Senior Air Force Official sentenced to 9 months in prison, fined $5000, and ordered to perform community service for negotiating a job with Boeing while at the same time negotiating contracting actions with Boeing on behalf of the Air Force.

Ethical Failures of Less Prominent Officials

Use of Contractor Time

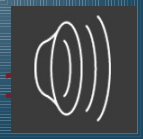
Allegations were made against a DoD official regarding his use of contractor employees. The official directed two US Government contractors to entertain an acquaintance he met at a conference in Europe on his behalf. They were directed to take the person out to lunch as well as out on the town the following evening. The contractors rightly believed that the request was improper and as a result told the DoD official that they “had other plans.” The DoD official told them to “cancel them.” The contractors eventually took the acquaintance out that evening for several hours.

After an investigation, it was determined that the DoD official had acted in violation of 5 CFR 2635.704 by utilizing contractors’ time improperly. His supervisor counseled him and the proper reimbursements were made.

Ethical Failures of Less Prominent Officials

Contracting Official in Afghanistan Pleads Guilty to Bribery

A Government employee at Bagram Airfield, pled guilty to accepting bribes in exchange for awarding Government contracts. The employee was responsible for evaluating trucking contractors and assigning each contractor days of work each month based on their performance. The employee was approached by a contractor and ultimately accepted a wireless telephone and $20,000 a month in exchange for assigning an extra day of work each month to that contractor. He also made a similar deal with another contractor for $15,000 a month. In all, the employee received about $87,000. He was sentenced to forty months in prison and three years of supervised release.

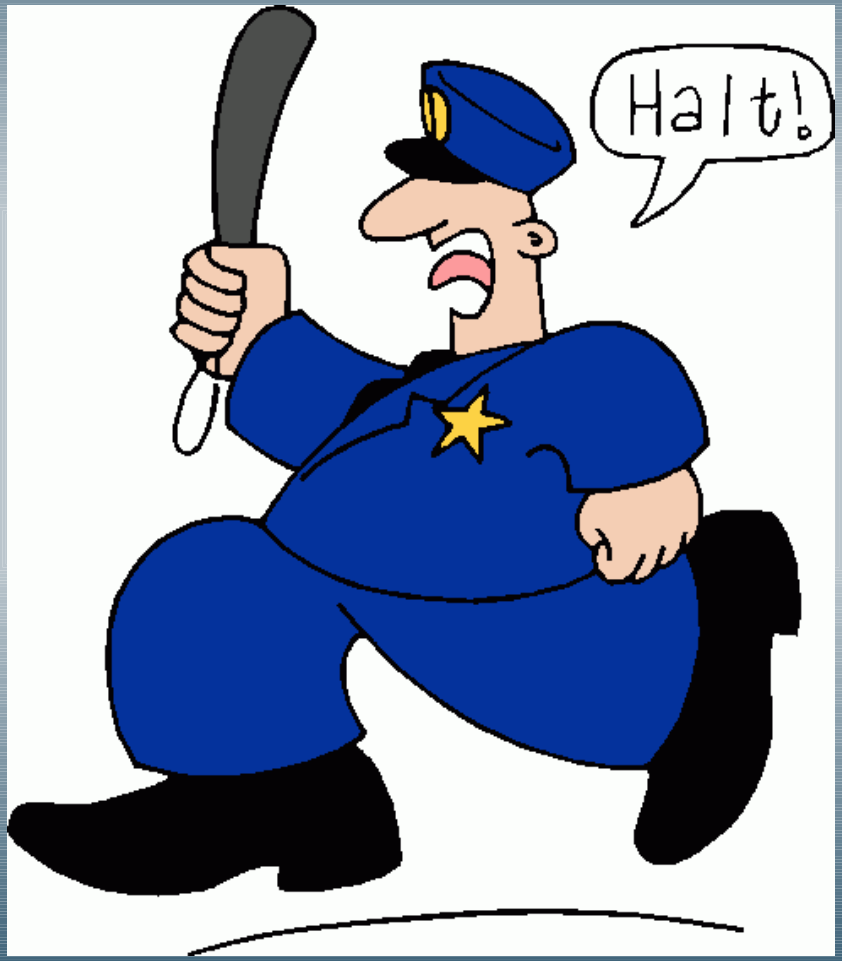


Ethical Failures of Less Prominent Officials

DOT Employee Sentenced for 18 U.S.C. 203 Violation

A former US Department of Transportation employee was sentenced in US District Court for receiving unauthorized compensation from a Government contractor for representing the contractor on a contract bid to the Government. The former official admitted that he assisted a DOT contractor in the preparation of a bid package for a $1 million Government contract. The judge sentenced the former employee to a year of probation and to pay a $2,500 fine.

A Brief Summary of Criminal Statutes

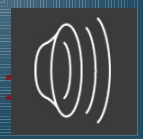


Criminal Financial Conflict of Interest Statutes

STATUTE	BRIEF SUMMARY
18 U.S.C. 201 Bribery	**Prohibits public officials from seeking, receiving or agreeing to accept anything of value for themselves or others in return for being influenced in an official act; being influenced to aid in the commission of a fraud on the United State; or being induced to do or omit any act in violation of official duty.**
18 U.S.C. 203 Representation	**Bars employees from seeking or accepting compensation for representing another before a Federal department, agency, or court in matters where the U.S. is a party or has a substantial interest; or receiving money from anyone else's representation.**

Criminal Financial Conflict of Interest Statutes

STATUTE	BRIEF SUMMARY
18 U.S.C. 205 Representation	Forbids employees from prosecuting or assisting in the prosecution of claims against the U.S.; or representing another before a Federal department, agency or court in matters where the U.S. is a party or has a substantial interest.
18 U.S.C. 207 Post-Gov Employment	Places certain restrictions on contacting the Federal government after leaving Federal employment.



Criminal Financial Conflict of Interest Statutes

STATUTE	BRIEF SUMMARY
18 U.S.C. 208 Financial Conflict of Interest	**Bars an employee from participating personally and substantially in an official capacity in any particular Government matter that would have a direct and predictable effect on his own or his imputed financial interests. Some regulatory exemptions apply. See your ethics counselor for details if you hold financial interests in companies that do business with or seek to do business with your office.**
18 U.S.C. 209 Dual Compensation	**Prohibits employees from receiving any salary or contribution to or supplementation of salary from any source other than the United States as compensation for services as a Government Employee.**

More Rules…

Gifts from Outside Sources

Erwin

Ethel

Gifts from Outside Sources

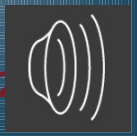
- **Ethel meets informally every week with representatives of defense contractors, who customarily treat her to a small breakfast.**

- **Ethel feels that since the me are well under $20, she is n doing anything improper. Is right?**

Gifts from Outside Sources

No!

- **Although an exception might permit acceptance of these small breakfasts, Ethel's recurring practice of accepting them is improper.**
- **Perceptions of private gain make accepting gifts from the same or different sources on a frequent basis impermissible.**



Gifts cont'd

- **RULES: Gifts from Outside Sou**
  - **Never Solicit Gifts! No Exceptions**
  - **Do not accept gifts that are:**
    - **Offered because of your official position, or**
    - **Offered by a prohibited source. (A prohibited source is any entity who seeks official action from DHRA, seeks or does business with DHRA, or may be affected by your official acts.)**
  - **Things that are not considered "gifts" include:**
    - **Modest items of food and refreshment (not a meal);**
    - **Plaques and certificates of little intrinsic value intended solely for presentation;**
    - **Commercial discounts available to the public or all Government or military personnel; or,**
    - **Anything paid for by the Government.**

Gifts You Can Keep

Exceptions to the Prohibition

- **Items valued at $20 or less per occasion with a $50 maximum per year from one prohibited source.**
- **Conferences: Under certain circumstances you may be able to accept the gift of free attendance at a conference if appropriate approvals as prescribed by DoD policy are obtained. See GC.**
- **Invitations to social events for which no fee is charged as long as the sponsor is not a prohibited source.**
- **Gifts based on a personal relationship (who's paying?).**
  - **If your mom, a prohibited source, buys you a sweater with her personal charge card, you are o.k. However, if your mom buys you a Porsche car with the company credit card, it's not o.k.**

Gifts Involving Travel Expenses 31 U.S.C. 1353

- DoD has authority to accept gifts of travel expenses (accommodations, airfare, and meals) of its employees when they are performing official duties at meetings, conferences, or similar events, but only under certain circumstances.
  - Better to take the form of gifts in-kind; checks go to Treasury – NEVER TO YOU OR DHRA!
  - Advance approval is required. See GC.
  - Expenses over $250 must be reported to SOCO.
  - Be Careful – Apply the Washington Post Test!

Gifts Between Employees
The General Rules

Superiors: Generally you may not give a gift to anyone in your chain of command, and you may not solicit a contribution from a co-worker for a gift to anyone in yours or their chain of command. This rule is to prevent you from having to buy your annual performance appraisal.

- **Superiors are prohibited from coercing the offering of a gift from a subordinate**

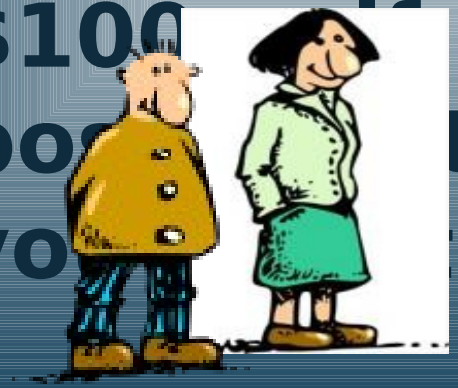
Co-workers: Generally, you may not accept gifts from a co-worker who is paid less than you, unless your co-worker is not in a superior-subordinate relationship with you, and you two have a personal relationship that justifies the giving of a gift.

Gifts Between Employees
Exceptions to the General Rules

- On an occasional basis, such as birthdays or holidays, superiors may accept gifts of up to $10 in value – no cash.
- Superiors may also accept food to be shared in the office among several employees.
- On special, infrequent occasions, such as marriage, illness, or infrequent occasions that terminate the subordinate/superior relationship, such as retirements or transfers, superiors may accept gifts from subordinates that are **appropriate** for the occasion.
  - For “group gifts,” the value of the gift may not exceed $300 per group.
  - Subordinate may solicit voluntary contributions of a nominal amount
    - Always a good idea to seek ethics advice before taking up collections for the boss

Boss's Birthday

Ethel and Erwin's boss invites the office to his birthday bash at his home. Ethel and Erwin ask their three co-workers to each pitch in $20 to purchase a $100 golf putter for their boss's birthday present. Can you find the ethical failures?



Answer

- The boss should not invite employees to his birthday party because it could be perceived as coercing a gift from his subordinates.

- The boss's birthday is not a special ***infrequent*** occasion because it comes the same time every year. As such, Ethel and Erwin are prohibited from soliciting co-workers for a group gift. Ethel and Erwin individually, may give the boss a birthday gift valued at $10 or less, as long as it is not cash.

Erwin's Retirement

In a few years Erwin decides to retire. Ethel who now works for Erwin, personally gives him a $20 book. In addition, she solicits four co-workers to voluntarily contribute $10 each for a going away gift. She would like him a fishing pole that co $50. Is she staying within ethics guidelines?

Answer

- Erwin's retirement is a special ***infrequent*** occasion that severs the subordinate/superior relationship. As such, Ethel may give the $20 book, as it is an appropriate gift for the occasion.

- Ethel may also solicit co-workers for a voluntary nominal contribution toward a group gift. DoD regulation has determined that a nominal amount to request from co-workers is $10. DoD regulation has also determined that a group gift may not exceed $300, so the $50 fishing pole is o.k.

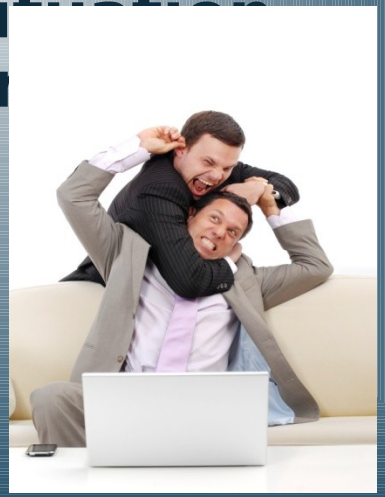
  - As Ethel requested co-workers contribute a specific amount, $10, she was required to include a statement in her solicitation that they "may choose to contribute less or not at all."

Impartiality in Performing Official Duties

- We all now know that the conflict of interest statute, 18 USC 208, prohibits us from participating in particular matters, such as contracts or source selections, where we have a financial interest or imputed financial interest.

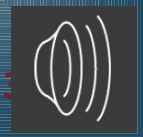
- Can there be times where a situation does not rise to a conflict of interest but still looks bad?

Yes! Imagine how it would look for brothers to be negotiating across the table from each other. Do they look impartial?



Impartiality in Performing Official Duties

- Do not participate in a matter likely to affect the financial interest of a member of your household, and
- Do not participate in a matter where a person with whom you have a covered relationship is also involved, and
- A reasonable person with knowledge of the facts would question your impartiality.



Impartiality in Performing Official Duties

- Covered Relationships include:
  - Members of your household
  - Relatives with whom you have a close personal relationship
  - Persons or organizations in which you have or seek business, contractual, or other financial relationship
  - Persons or organizations in which your spouse, parent, or dependent child is serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee
  - Organizations in which you served as officer, director, agent, contractor, consultant, or employee within last year

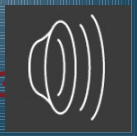
Do you think it is o.k. to leave your federal job one day, and walk back in the next as a contractor?

How will this impact public trust?

For specifics about how the p employment laws apply to y seek ethics counseling before you start looking for a non-Federal job.

Under the conflict of interest law, when seeking non-Federal employment, you MUST:

- ***Disqualify*** **yourself from official participation**
- **In any particular matter**
- **That has a direct and predictable effect on the financial interests**
- **Of entities with whom you are discussing future employment.**



Post-Government Employment

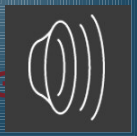
- In general, the post-Government employment laws at 18 U.S.C. 207 place restrictions on the ability of former Federal personnel to "represent" someone before the Government for some period of time after departure. There are different kinds of "Representation Bans." Seek ethics advice to learn how the bans will apply to your specific situation.

- The Procurement Integrity Act prohibits certain former Federal personnel from being paid by the awardee of a contract in excess of $10M.

- All DoD personnel must receive post-

Misuse of Position

- **You may not use your public office for your own private gain, or for the private gain of others**
  - **This includes improper use of non-public information**
- **Example of an ethical failure:**
- **Supervisors Push for Friends to be Hired: A review found in two instances that supervisors recommended the hiring of close personal friends without divulging the relationship to human resources staff members. The review team recommended that disciplinary action be taken.**



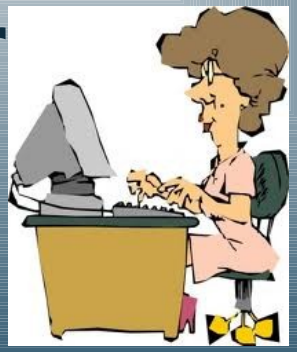
Misuse of Position

- **Endorsement:**
  - **You may *not* use your official title / position to endorse anything not part of the Federal Government. This includes commercial products or services, non-profit entities, charitable organizations, or events hosted by non-Federal entities.**

- **Examples: letters of endorsement for service-related organizations in brochures, magazines, or websites**
- **However, factual recitations of a contractor's past performance may be o.k. Seek ethics advice.**

Misuse of Position

- **Use of Government resources:**
  - **Government resources, including official time, personnel, equipment, nonpublic information, and telecommunications equipment may be used only for author purposes.**



Outside Activities

Fundraising:

- **Generally, *fundraising is prohibited* in the Federal workplace.**
- **The government must be neutral to retain the public's confidence, so we must ensure a level playing field for all non [illegible]ntities.**
- ***What is fundraising?***
- **Soliciting funds;**
- **Selling items; or**
- **Employee official participation in the conduct of an event where any part of the cost of attendance or participation may be taken as a charitable tax deduction by a person incurring the cost.**

Outside Activities

- **Fundraising:**

  - **Permitted Fundraising:**
    - **Combined Federal Campaign authorized by Executive Order**
    - **Emergency relief drives approved by OPM**
    - **By our own office members, for our own office members**

Teaching, Speaking, & Writing

- **You may not accept compensation, including honoraria, from a non-Federal source for teaching, speaking or writing that *relates* to your official duties.**

It *relates* to your official duties when:

- **Activity is undertaken as part of employee's official duties.**
- **Invitation is extended because of position, not expertise, by person whose interests may be affected by your official duties.**
- **The content includes non-public information**
- **Deals in significant part with matter(s) to which you are assigned during the past one-year period, or with ongoing policy**

Other rules may apply, seek ethics advice.

litical Activities

ent rules apply to SES and Service members)

General Schedule DHRA Employees:

- ***May*** **be candidates for public office in nonparti elections**
- ***May*** **register and vote as they choose**
- ***May*** **assist in voter registration drives**
- ***May*** **express opinions about candidates and iss**
- ***May*** **contribute money to political organization**
- ***May*** **attend political fundraising functions**
- ***May*** **attend and be active at political rallies and meetings**
- ***May*** **join and be an active member of a political party or club**
- ***May*** **sign nominating petitions**
- ***May*** **campaign for or against referendum questions, constitutional amendments, municipal ordinances**
- ***May*** **campaign for or against candidates in partisan elections**
- ***May*** **make campaign speeches for candidates in partisan elections**
- ***May*** **distribute campaign literature in partisan elections**

Political Activities

(Different rules apply to SES and Service members)

General Schedule DHRA Employees

- ***May not*** **use their official authority, title, or influence to interfere with an election**
- ***May not*** **solicit, accept or receive political contributions unless both individuals are members of the same federal labor organization or employee organization and the one solicited is not a subordinate employee**
- ***May not*** **knowingly solicit or discourage the political activity of any person who has business before the agency**
- ***May not*** **engage in political activity while on duty**
- ***May not*** **engage in political activity in any governm office**
- ***May not*** **engage in political activity while wearing a official uniform**
- ***May not*** **engage in political activity while using a government vehicle**
- ***May not*** **be candidates for public office in partisan elections**
- ***May not*** **wear political buttons on duty**

Question

Betty receives a funny political email from a friend denouncing candidates in a particular party. Is Betty in violation of the ethics guidelines?

Answer

- **No, simply receiving a partisan political email while at work, does not constitute prohibited political activity as defined under the Hatch Act. *However*, Betty must <u>not</u> send or forward the email to others.**

Duty to Report Violations

- To your supervisor
- Ethics Counselor
- Anonymous Reporting Permitted through:
  - DoD Inspector General Hotline (800) 424-9098
  - U.S. Office of Special Counsel (202) 254-3640 www.OSC.gov

RESOURCES

- OSD Standards Of Conduct Office: http://www.dod.mil/dodgc/defense_ethics/
- Office of Government Ethics: http://www.usoge.gov/

Questions ?

Please call Heather LoPresti, 571-372-1988

Conclusion

Congratulations!
Your New Entrants Ethics Training is Complete.
Thank You for Your Compliance with U.S. Government Ethics Requirements

To Receive Credit for this Training, you *must* click the "Complete & Send Certificate" Button Below

Note: By submitting you are certifying that you personally completed the entire training module.

Once you click on the button below, the certificate will open in your [illegible] presentation to view [illegible]te.

Complete & Send Certificate